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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

YAN BATAZHAN; TAMARA  
BATAZHAN,

Plaintiffs - Appellants,

v.

ALLSTATE INSURANCE COMPANY,

Defendant - Appellee.

No. 05-35673

D.C. No. CV-04-00215-MWM

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Oregon  
Michael W. Mosman, District Judge, Presiding

Argued and Submitted September 28, 2007  
Portland, Oregon

Before: SCHROEDER, Chief Judge, SILVERMAN and BYBEE, Circuit Judges.

Yan and Tamara Batazhan appeal the district court's denial of attorney fees under Or. Rev. Stat. § 742.061. The statute applies to insurers who have failed to reach prompt, fair settlements of insurance claims. See Dockins v. State Farm Ins. Co., 985 P.2d 796, 801 (Or. 1999). In this case, Allstate paid the Batazhans' claim

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

under their homeowner's insurance policy once the Batazhans complied with the provision of the policy requiring them to submit to examinations under oath during the insurance company's investigation. The district court correctly held that until the plaintiffs complied with the policy provisions, they were not entitled to payment of the claim.

AFFIRMED.